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UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION

SOUTH DAKOTA PUBLIC  
UTILITIES COMMISSION

Willow Creek Wind, LLC

Docket No. EG19-\_\_\_\_-000

**NOTICE OF SELF-CERTIFICATION OF  
EXEMPT WHOLESALE GENERATOR STATUS**

Pursuant to the Public Utility Holding Company Act of 2005 ("PUHCA 2005"), enacted as part of the Energy Policy Act of 2005,<sup>1</sup> and Section 366.7(c)(1) of the Rules and Regulations of the Federal Energy Regulatory Commission (the "Commission"),<sup>2</sup> Willow Creek Wind, LLC ("Applicant") hereby submits this notice of self-certification of its status as an exempt wholesale generator ("EWG"), as defined in Section 366.1 of the Commission's Rules and Regulations.<sup>3</sup>

**I. COMMUNICATIONS**

All communications regarding this Notice should be directed to:

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<sup>1</sup> EPA Act 2005, Pub. L. No. 109-58, 1261-80, 119 Stat. 594 (2005).

<sup>2</sup> 18 C.F.R. § 366.7(c)(1) (2019).

<sup>3</sup> 18 C.F.R. § 366.1.

## **II. DESCRIPTION OF APPLICANT**

### **A. Upstream Ownership**

Applicant is a Delaware limited liability company and a wholly owned direct subsidiary of Lincoln Clean Energy, LLC ("LCE"). LCE is a Delaware limited liability company engaged in the business of developing, owning and operating renewable wind and solar powered generating facilities and other clean power technologies through special purpose project companies. LCE is a wholly owned indirect subsidiary of Ørsted A/S ("Ørsted"). Ørsted is a publicly traded energy company based in Denmark and a leading global developer of wind energy projects.

### **B. Applicant's Proposed Activities**

Applicant is developing and will own and operate an approximately 103.2 MW wind powered generating facility located in Butte County, South Dakota (the "Facility"). The Facility will be comprised of wind turbine generators and associated equipment necessary for the generation of electricity. The Facility will also include interconnection facilities necessary to sell electricity at wholesale and will interconnect to the transmission system owned by the Western Area Power Administration and operated by the Southwest Power Pool ("SPP"). Applicant will sell the electrical output of the Facility exclusively at wholesale and will not sell electricity outside of the SPP markets. Applicant anticipates that the Facility will generate test power on March 15, 2020 and will commence commercial operation shortly thereafter.

Applicant may also engage in the following incidental activities that the Commission has found to be consistent with EWG status:

- Lease or rent property to third parties, but to the extent a lease arrangement is not reasonably necessary to the Applicant's business and a rental fee above a nominal amount is received, Applicant will, consistent with EWG precedent, donate or transfer such rental revenues to a non-affiliated entity;<sup>4</sup>
- Sell renewable energy credits consistent with the Commission's limitation that an EWG may sell such credits only where they are associated with power produced by the Facility;<sup>5</sup>
- Engage in project development activities associated with the Facility;<sup>6</sup>
- Engage in other incidental activities that are consistent with Commission precedent.

### III. SELF CERTIFICATION OF EWG STATUS

Pursuant to Sections 366.1 and 366.7 of the Commission's regulations,<sup>7</sup> Applicant represents that it satisfies the requirements for EWG status, as follows:

1. Applicant is a Delaware limited liability company that will own and operate the Facility.

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<sup>4</sup> See, e.g., *Duke Energy Hot Spring, LLC*, 98 FERC ¶61,287 (2002); *PSEG Fossil, LLC, et al.*, 95 FERC ¶ 61,405 (2001).

<sup>5</sup> See *Madison Windpower, LLC*, 93 FERC ¶ 61,270 (2000).

<sup>6</sup> See, e.g., *Empresa Valley Hermoso, S.A.*, 72 FERC ¶ 61,306 at 62,288 (1995). Applicant will, to the extent required by the Commission, file a new notification of EWG status if it acquires ownership and/or operating interests in any additional eligible facilities not described herein.

<sup>7</sup>18 C.F.R. §§ 366.7 and 366.1.

2. Except for the incidental activities noted above, Applicant is exclusively and directly engaged in the business of operating the Facility and selling electric energy at wholesale. The Facility is an “eligible facility” as defined in Section 32(a)(2) of the Public Utilities Holding Company Act, which is incorporated by reference in Section 1262(6) of PUHCA 2005,<sup>8</sup> and Section 366.1 of the Commission’s regulations.

3. Applicant will not make foreign retail sales of electric energy.

4. No portion of the Facility will be owned or operated by an “electric utility company” that is an “affiliate” or an “associate company” of the Applicant, as those terms are defined in Section 366.1 of the Commission’s regulations.

5. No rate or charge for, or in connection with, the construction of the Facility, or for the electric energy produced by the Facility, was in effect under the laws of any state on October 24, 1992. As such, no determination or certification by any state commission is necessary prior to certification of Applicant as an EWG.

6. In accordance with Section 366.7(a) of the Commission’s regulations, Applicant shall file a copy of this Notice with the South Dakota Public Utilities Commission, which is the state regulatory authority of the state in which the Facility will be located.

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<sup>8</sup> 42 U.S.C. § 16451(6) (2006).

#### IV. CONCLUSION

For the foregoing reasons, Applicant respectfully requests that the Commission accept for filing this Notice of Self-Certification of EWG Status.

Respectfully submitted,

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